

RECORDATION NO. 21026 FILED

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
918 SIXTEENTH STREET, N.W.  
SUITE 200  
WASHINGTON, D.C.

NOV 25 '97 11-55 AM

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

20006-2973  
(202) 393-2266  
FAX (202) 393-2156

OF COUNSEL  
URBAN A. LESTER

RECORDATION NO. 21026-A, B, C, D FILED

November 25, 1997

NOV 25 '97 11-55 AM

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Master Equipment Lease Agreement, dated as of June 28, 1996, a primary document as defined in the Board's Rules for the Recordation of Documents and two (2) copies of the following secondary documents related thereto: Lease Schedule, dated June 28, 1996; Locomotive Lease (Sublease), dated December 11, 1996; First Addendum to Locomotive Lease, dated August 4, 1997; and Assignment Agreement, dated August 20, 1997.

The names and addresses of the parties to the enclosed documents are:

Master Equipment Lease Agreement  
and Lease Schedule

Lessor: First Security Leasing Company  
381 East Broadway  
2<sup>nd</sup> Floor  
Salt Lake City, Utah 84111

Lessee: Nevada Industrial Switching, Inc.  
45 West University  
Suite A  
Mesa, Arizona 85201

Mr. Vernon A. Williams  
November 25, 1997  
Page 2

Locomotive Lease (Sublease) and  
First Addendum to Locomotive Lease

Lessor: Nevada Industrial Switching, Inc.  
45 West University, Suite A  
Mesa, Arizona 85201

Lessee: Formosa Plastics Corporation, Texas  
201 Formosa Drive  
Point Comfort, Texas 77978

D → Assignment Agreement

Assignor: Nevada Industrial Switching, Inc.  
45 West University, Suite A  
Mesa, Arizona 85201

Assignee: First Security Leasing Company  
381 East Broadway, 2<sup>nd</sup> Floor  
Salt Lake City, Utah 84111

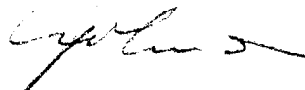
A description of the railroad equipment covered by the enclosed documents is:

four (4) SW-10 locomotives: NIS 1261, NIS 1262, NIX 1263 and NIS 1268

Also enclosed is a check in the amount of \$120.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return one stamped copy of each of the enclosed documents to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/bg  
Enclosures

NOV 25 '97

11-55 AM

**ASSIGNMENT AGREEMENT**

THIS ASSIGNMENT AGREEMENT (the "Agreement") is entered into as of the 20th day of August, 1997, by and between NEVADA INDUSTRIAL SWITCHING, INC., a Nevada corporation ("Lessee") and FIRST SECURITY LEASING COMPANY ("FSLC").

**Recitals**

A. FSLC, as lessor, and Lessee have entered into a certain equipment lease (the "Lease") for four (4) SW-10 EMD HP Diesel Locomotives (the "Equipment").

B. Lessee, as lessor, and FORMOSA PLASTICS CORPORATION, TEXAS, a Texas corporation, as lessee ("Sublessee"), have entered into a lease of certain equipment (the "Equipment") which is evidenced by that certain Locomotive Lease No. 96-12-1 dated December 11, 1996 (the "Sublease"), a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

C. Lessee has agreed to assign and grant to FSLC a security interest in and to the Sublease, the Equipment and all payments and rents under the Sublease as security for the payment and performance of the Lease.

**Agreement**

1. Assignment and Grant of Security. Lessee does hereby assign and grant to FSLC a security interest in and to all of Lessee's rights, title and interest, as security for the payment and performance of all of Lessee's obligations under the Lease, in and to the Equipment and any and all payments and rents of any kind due to Lessee under the Sublease, together with Lessee's rights to receive notices and give consents under the Sublease, and including all proceeds, property, property rights, privileges and benefits arising from any of the foregoing, including all accounts, contract rights, chattel paper, general intangibles, rentals, damage and other moneys from time to time payable to or receivable by Lessee under the Sublease, including insurance and condemnation proceeds (all of the foregoing being hereinafter sometimes collectively called the "Leased Collateral"), to have and to hold the Leased Collateral unto FSLC and its successors and assigns for its and their own use and benefit until such time as Lessee has performed all of its obligations under the Lease and hereunder. Lessee and FSLC agree that so long as there is no default under the Lease, all payments under the Sublease shall be made directly to Lessee; but that upon default under the Lease, FSLC shall have the right to notify Sublessee that payments under the Sublease shall be made directly to FSLC. Lessee further agrees to pay promptly to FSLC all such rentals and other payments and amounts that have been paid to Lessee after a default under the Lease or after a default hereunder.

2. Additional Documentation. Lessee agrees to execute any additional documentation reasonably required by FSLC to effectuate the purposes of this Agreement.

3. Warranties and Representations. Lessee represents and warrants to FSLC that: (a) the Sublease is valid, in full force and effect and enforceable in accordance

with its terms; (b) no defaults exist under the Sublease; (c) Sublessee has performed all of its obligations under the Sublease; (d) there have been no amendments, modifications or waivers with respect to the Sublease, and Lessee will not consent to any amendments, modifications or waivers without the prior written of FSLC; (e) the Equipment is not subject to any claims, liens or encumbrances of any kind except the interests of Sublessee and Lessee under the Sublease, and the interests of FSLC hereunder and under the Lease; (f) Lessee is the holder and owner of the lessor's interest under the Sublease free and clear of all claims, defenses, liens, encumbrances and causes of action of any kind; (g) this Agreement has been duly authorized by Lessee's Board of Directors and the person executing this Agreement on behalf of Lessee was duly authorized to sign; and (h) this Agreement constitutes a valid and binding agreement on behalf of the Lessee enforceable according to its terms.

4. Sole Responsibility. The liability and obligations of the lessor under the Sublease are the sole responsibility of Lessee, and the assignment herein, which is made only as security, shall not subject FSLC to the liability and obligations of Lessee under the Sublease, it being understood that Sublessee shall look solely to Lessee and not to FSLC for performance of the lessor's obligations thereunder, including, without limitation, obligations of maintenance and indemnity.

5. FSLC as Agent. Lessee hereby constitutes FSLC and its successors and assigns, the true and lawful attorney of Lessee, irrevocably and with full power of substitution, in the name of Lessee or otherwise, to demand, receive, compromise, sue for and give acquittance for, any and all rentals, moneys and claims for money due and to become due under the Sublease or otherwise arising out of this Agreement, to endorse any checks or other instruments in connection therewith, to make all waivers and take any action or institute any proceedings with respect thereto and do all things which FSLC may deem necessary or advisable in its sole and complete discretion to carry out the terms and intent of this Agreement.

6. Protection of Security. Lessee shall not (a) cause or permit any of the Leased Collateral to be levied upon under legal process or to fall under any other lien or encumbrance of whatsoever nature, except liens permitted under the Lease; (b) cause or permit anything to be done which may impair the value of the Leased Collateral or the security interest therein and granted hereby; or (c) without the prior written consent of FSLC, sell, assign (including by virtue of assignments by operation of law), mortgage, pledge or otherwise transfer or encumber any of the Leased Collateral (except as contemplated herein), or take any action that would permit any party other than FSLC to perfect any security interest in the Leased Collateral.

7. Disclaimer by FSLC. FSLC makes no representations or warranties with respect to the Equipment, and FSLC shall have no liability or obligation arising out of any claims with respect thereto. FSLC shall not be responsible or liable for, and Lessee shall indemnify and hold harmless FSLC from, any loss (including legal fees), injury or death to any person or entity, including Lessee, Sublessee and their respective licensees, invitees, employees or agents, resulting from any dangerous or defective condition of any of

the Equipment or resulting from the use, possession, management, upkeep, repair, maintaining, servicing, leasing or control of any of the Equipment.

8. Indemnity for Acts of FSLC. Lessee covenants and agrees with FSLC that in any suit, proceeding or action brought or taken by or against FSLC under the Sublease or this Agreement for any rental or other sum owing thereunder, or to enforce any provisions of the Sublease or this Agreement, Lessee shall save, indemnify and keep FSLC harmless from and against all expense (including legal fees), loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of Sublessee or its successors, arising out of a breach by Lessee of any obligation under the Sublease.

9. Default. Lessee will be in default hereunder if any of the following events occur:

a. There is any default by Lessee under the Lease, the Sublease or this Agreement; or

b. Any statement, representation or warranty made herein or otherwise by Lessee to FSLC is untrue in any material respect.

10. Remedies. Upon or at any time after a default hereunder, FSLC, without in any way waiving such default or limiting any other remedy, may, at its sole discretion and option, take any or all of the following actions:

a. FSLC may notify Sublessee that Lessee has defaulted and, if the Sublessee is not already doing so, that all rental and other payments under the Sublease are to be made directly to FSLC. FSLC may immediately, without further notice to Lessee and without judicial action, assume and receive all of Lessee's rights and benefits associated with the Sublease, and Lessee's interest therein shall thereupon terminate and vest in FSLC. FSLC shall thereafter hold such rights, but not any obligations, subject to the same terms and conditions provided for in the Sublease, and may collect and deposit all rental and other payments and amounts due under the Sublease as payment of Lessee's obligations under the Lease. The exercise by FSLC of this option shall not be considered to be a waiver of any default in the payment or performance of the Lease secured hereby; nor shall it be considered an assumption by FSLC of any of Lessee's obligations under the Sublease.

b. Without notice to Lessee, FSLC may pay any payments, cure any default or perform or discharge any obligations in such manner and to such extent as it may deem necessary to protect the Leased Collateral assigned hereby and may commence, appear in and defend any action or proceeding purporting to affect the Leased Collateral or the rights or powers of Lessee or FSLC; pay, purchase, contest or compromise any encumbrance, charge or lien which, in FSLC's sole judgment, appears to be prior or superior hereto; and in exercising any such powers, incur any liability or expend any amounts which FSLC may deem necessary, including reasonable attorney's fees and costs. Lessee agrees to pay immediately and without demand all sums expended hereunder by

FSLC with interest from the date of expenditure at the same rate called for under the terms of the Lease secured hereby, and the repayment shall be secured hereby.

c. FSLC may sell the Sublease at a discounted rate or otherwise.

d. FSLC shall be allowed to pursue any other remedy allowed it at law, in equity or by agreement.

The remedies of FSLC are cumulative and not exclusive, and any waiver of any default shall not be considered a waiver of any other or future default. FSLC shall not be liable for any loss sustained by Lessee resulting from FSLC's failure to exercise its rights under this Agreement, and nothing contained herein shall require FSLC to exercise its rights hereunder, which rights shall be exercised at the sole discretion and option of FSLC after a default by Lessee hereunder.

11. Notices. Lessee shall promptly notify FSLC of any of the following of which it has knowledge:

a. The occurrence of a default by Lessee or Sublessee under or rescission or termination of the Sublease;

b. If any Equipment is damaged, and such damage shall not have been repaired by Lessee or Sublessee within a reasonable time;

c. The failure of Sublessee to name FSLC as additional insured and loss payee in Sublessee's physical damage and liability insurance policies; or

d. The commencement of any litigation affecting any Equipment.

Any notice hereunder shall be deemed effective on the date such notice is placed, first class, postage prepaid, in the United States mails, addressed to the party to which notice is being given as follows:

Lessee:

Nevada Industrial Switching, Inc.  
45 West University, Suite A  
Mesa, Arizona 85201  
Attention: Robert J. Schroeder

OR

FSLC:

First Security Leasing Company  
381 East Broadway, 2nd Floor  
Salt Lake City, Utah 84111  
Attention: Contracts Administration

12. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. This Agreement, together with the covenants and warranties contained herein, shall inure to the benefit of FSLC, its successors, representatives and assigns and shall be binding upon Lessee, its successors, representatives and assigns.

Dated as first above written.

**LESSEE:**

**NEVADA INDUSTRIAL SWITCHING, INC.,**  
a Nevada corporation

By Robert J. Schaefer  
Its PRESIDENT

**FSLC:**

**FIRST SECURITY LEASING COMPANY**

By B. C. Hall  
Its Leasing Office + Authorized Agent, A/C

(Remainder of page intentionally left blank)

ACKNOWLEDGEMENT

STATE OF ARIZONA )  
 : ss.  
COUNTY OF MARICOPA )

On the 30<sup>th</sup> day of AUGUST, 1997, before me personally appeared ROBERT J. SCHROENER to me personally known, who being by me duly sworn, says that he is the PRESIDENT of Nevada Industrial Switching, Inc., that the foregoing instrument was signed on behalf of Nevada Industrial Switching, Inc., by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of Nevada Industrial Switching, Inc.

Jennie Cunico, Notary Public  
Maricopa County, Arizona  
My Commission Expires 3/30/98

Jennie Cunico  
Notary Public  
Residing at 4036 E. ENRIQUE AVE  
PHOENIX AZ

My commission expires:

3/30/98

ACKNOWLEDGEMENT

STATE OF Nevada )  
 : ss.  
COUNTY OF Clark )

On the 15<sup>th</sup> day of August, 1997, before me personally appeared Brian C. Stegall to me personally known, who being by me duly sworn, says that he is the Leasing Officer & Authorized Agent of First Security Leasing Company, that the foregoing instrument was signed on behalf of First Security Leasing Company, by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of First Security Leasing Company.



KIMBERLY A. TRAVAGLIA  
Notary Public - Nevada  
Clark County  
My appt. exp. Jan. 26, 1999

My commission expires:

1/26/99

Kimberly A. Travaglia  
Notary Public  
Residing at 7086 N. Buffalo  
LV, NV

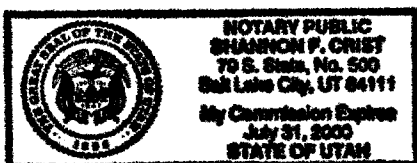


CERTIFICATE OF AUTHENTICITY

I, Ellen J. Toscano, hereby certify that the attached copy of that certain Assignment Agreement (the "Assignment") is a true, accurate and complete copy of the original Assignment.

*Ellen J. Toscano*  
Ellen J. Toscano

Subscribed and Sworn to before me this 24th day of November, 1997.



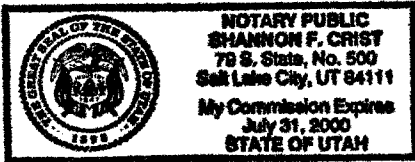
*Shannon F. Crist*  
Notary Public for the State of Utah  
Residing in: *Salt Lake County*  
My commission expires: *7-31-2000*

CERTIFICATE OF AUTHENTICITY

I, Ellen J. Toscano, hereby certify that the attached copy of that certain Acknowledgement and Consent to Assignment of Lease (the "Acknowledgement") is a true, accurate and complete copy of the original Acknowledgement.

*Ellen J. Toscano*  
Ellen J. Toscano

Subscribed and Sworn to before me this 24th day of November, 1997.



*Shannon F. Crist*  
Notary Public for the State of Utah  
Residing in: *Salt Lake County*  
My commission expires: *7-31-2000*

## ACKNOWLEDGMENT AND CONSENT TO ASSIGNMENT OF LEASE

The undersigned, **FORMOSA PLASTICS CORPORATION, TEXAS**, a Delaware corporation ("Sublessee"), with its principal office at 201 Formosa Drive, Point Comfort, Texas 77978, hereby executes this Acknowledgment and Consent to Assignment of Lease (the "Acknowledgment") as of 10-3, 1997.

### Recitals

A. Sublessee is the lessee under that certain Locomotive Lease No. 96-12-1 (the "Agreement") dated December 11, 1996, with Nevada Industrial Switching, a Nevada corporation, as lessor ("Assignor").

B. Assignor has assigned and conveyed all of its right, title and interest, but none of its obligations, in and to the Agreement and the Equipment (defined below) to First Security Leasing Company ("FSLC") pursuant to that certain Assignment Agreement dated as of August 20, 1997, and all related documents (the "Assignment") as security for the payment and performance of an equipment lease between FSLC, as lessor, and Assignor, as lessee, for four (4) SW-10 EMD HP Diesel Locomotives (the "Equipment").

### Agreement

1. Consent, Validity and Representations. Sublessee hereby consents to the Assignment. Sublessee represents and warrants that: (a) the Agreement is the legal, valid and binding obligation of Sublessee, is in full force and effect, and is enforceable in accordance with its terms; (b) no defaults exist pursuant to the terms of the Agreement; (c) Assignor has performed all obligations required to be performed by it under the Agreement through the date hereof; (d) other than that certain First Addendum Agreement to Locomotive Lease No. 96-12-1 dated August 4, 1997 between Assignor and Sublessee, there have been no amendments, modifications or waivers with respect to the Agreement, and Sublessee will not consent to any amendments, modifications or waivers without the prior written consent of FSLC; and (e) Sublessee will not assign, transfer, sublet or lease any of its rights under the Agreement without the prior written consent of FSLC.

2. Remaining Payments. 58 <sup>LESS ANY DEDUCTIONS ALLOWED BY AGREEMENT</sup> payments in the amount of \$12,400.00 each, plus any applicable taxes and charges, remain due under the Agreement. Sublessee has not prepaid any rent or other amount arising under the Agreement. \$11 2/3

3. Payments to Assignor and to FSLC; Lease, Purchase or Return of Equipment. Sublessee agrees that until it receives notice of Assignor's default from FSLC, Sublessee shall make its regular monthly payments under the Agreement to Assignor subject to the terms of the Agreement. Upon receipt of notice of Assignor's default, Sublessee shall make all payments due and provide all notices and other information to be paid, provided or furnished under the Agreement directly to FSLC.

4. Sole Responsibility. Assignor's obligations as set out in the Agreement are the sole responsibility of Assignor, and FSLC shall have no obligations of Assignor thereunder. Sublessee shall look solely to Assignor and not to FSLC for performance of Assignor's obligations under the Agreement, including, without limitation, any obligations of maintenance and indemnity.

5. Delivery and Acceptance of Equipment. The Equipment has been delivered to Sublessee, and accepted as satisfactory in accordance with the Agreement. Sublessee hereby reaffirms all matters set forth in any certificate of acceptance delivered to Assignor. The Equipment is in the condition required by the terms of the Agreement and no loss, casualty, taking or requisition has occurred with respect to any of the Equipment.

6. Subordination of Rights. Any rights Sublessee may have in or to the Equipment by virtue of the Agreement are subordinate to FSLC's interest acquired from Assignor.

7. Acknowledgment of Assignment. Sublessee acknowledges that Assignor's assignment to FSLC hereunder shall not preclude further assignments of the Agreement by FSLC and shall not relieve Sublessee of any of its duties pursuant to the Agreement should such further assignments be made. Sublessee acknowledges and agrees that this Acknowledgment is a material inducement for FSLC to enter into the Assignment and FSLC would not enter into the Assignment without this Acknowledgment.

8. Notice of Termination or Buyout. Sublessee agrees to provide FSLC a sixty (60) day advance notice of any Lease termination or the exercise of any buyout option permitted under the Agreement as it relates to any or all of the Equipment financed by FSLC. In the event of a buyout of any or all of the Equipment during the term of the financing, Sublessee agrees to execute a check jointly to FSLC and Assignor.

9. Insurance. So long as the Agreement is in effect, Sublessee shall maintain the insurance required to be maintained by Sublessee pursuant to Section 13 of the Agreement.

10. Notices. All notices to FSLC shall be given in the manner by the Agreement to the following address:


First Security Leasing Company  
381 East Broadway, 2nd Floor  
Salt Lake City, Utah 84111  
Attention: Contracts Administration

[remainder of page intentionally left blank]

SUBLESSEE:

FORMOSA PLASTICS CORPORATION,  
TEXAS, a Delaware corporation

By  
Its

  
CONTRACTING MANAGER